

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
WORCESTER DIVISION

DONALD P. SPEAKMAN, STEPHEN H.	§	
WEDEL and MARK L. ROBARE,	§	
Individually and On Behalf of All Others	§	
Similarly Situated,	§	
	§	
Plaintiffs,	§	
	§	Civil Action No. 4:04-cv-40077-FDS
v.	§	
	§	
ALLMERICA FINANCIAL LIFE INS. &	§	
ANNUITY CO., FIRST ALLMERICA	§	
FINANCIAL LIFE INS. CO., and	§	
ALLMERICA FINANCIAL CORP.	§	
	§	
Defendants.	§	

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**PLAINTIFFS' MOTION FOR INCENTIVE AWARDS AND  
PLAINTIFFS' COUNSEL'S MOTION FOR  
ATTORNEYS' FEES AND EXPENSES**

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Plaintiffs Donald P. Speakman, Stephen H. Wedel, and Mark L. Robare ("Plaintiffs"), make this Motion for Incentive Awards, and Hubbard & Biederman, LLP, and Mouton & Gans, P.C. ("Plaintiffs' Counsel"), make this Motion for Attorneys' Fees and Expenses, and in support thereof state as follows:

1. On May 23, 2006, the parties entered into a Stipulation of Settlement ("Proposed Settlement").
2. On June 21, 2006, the parties filed a Joint Motion for Preliminary Approval of Stipulation of Settlement And Entry of Hearing Order, which the Court granted on June 26. In that Order, the Court scheduled August 11, 2006 at 3:00 p.m. as date and time for the fairness hearing on the Proposed Settlement that includes consideration of this Motion.

3. The Proposed Settlement provides that the parties in good faith shall seek to agree on the amount for which Plaintiffs' Counsel may submit an application for awards of attorneys' fees and incentive awards, which application Defendants will not oppose.

4. The parties reached an agreement with Defendants agreeing to pay and not oppose Plaintiffs' application for incentive awards in the total amount of \$60,000, or \$20,000 each, and Plaintiffs' Counsel's application for attorneys' fees of \$2.6 million inclusive of expenses.

5. Plaintiffs' Counsel request that the Court grant the request for attorneys' fees for the following reasons:

- A. The requested fees are approximately 18% of the total benefits provided by the Proposed Settlement of approximately \$13.9 million;
- B. Plaintiffs' Counsel have exhibited skill and efficiency in handling this case;
- C. The Proposed Settlement was reached after lengthy contentious litigation involving complex issues;
- D. Plaintiffs' Counsel devoted substantial time and effort, on a contingent basis, in this case;
- E. The requested fees are below the customary range of such awards; and
- F. The requested fees are below the acceptable range of the lodestar multipliers approved in contingency cases of this type in this district.

6. Plaintiffs request that the incentive awards be granted in light of the following reasons:

- A. They have expended substantial time in this case in all facets of the lawsuit, including assisting in the investigation and preparation of the lawsuit, identifying and producing a substantial number of documents requested by Defendants, preparing and giving their full-day depositions, assisting Plaintiffs' Counsel in the settlement of the case, and monitoring the progress of the lawsuit and settlement negotiations; and

- B. Bearing the risk of non-reimbursement of expenses that they advanced to prosecute the lawsuit.

7. In support of this Motion, Plaintiffs and Plaintiffs Counsel submit the Declaration of Stephen L. Hubbard and Declaration of Nancy Freeman Gans.

Based upon the above, Plaintiffs and Plaintiffs' Counsel request that Plaintiffs' Motion for Incentive Awards and Plaintiffs' Counsel's Motion for Attorneys' Fees and Expenses be granted.

Dated this 12<sup>th</sup> day of July, 2006.

Respectfully submitted,

/s/ Robert W. Biederman

Stephen L. Hubbard  
Robert W. Biederman (BBO No. 562279)  
**HUBBARD & BIEDERMAN, LLP**  
1717 Main Street, Suite 4700  
Dallas, Texas 75201  
Telephone: (214) 857-6000  
Facsimile: (214) 857-6001  
[slhubbard@hblawfirm.com](mailto:slhubbard@hblawfirm.com)  
[rwbiederman@hblawfirm.com](mailto:rwbiederman@hblawfirm.com)

Nancy Freeman Gans (BBO No. 184540)  
**MOULTON & GANS, P.C.**  
55 Cleveland Road  
Wellesley, MA 02481  
Telephone: (781) 235-2246  
Facsimile: (781) 239-0353  
[nfgans@aol.com](mailto:nfgans@aol.com)

ATTORNEYS FOR PLAINTIFFS  
AND THE CLASS

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 12th, 2006.

Andrea J. Robinson, Esq.  
Jonathan A. Shapiro, Esq.  
Eric D. Levin, Esq.  
Brett R. Budzinski, Esq.  
WILMER CUTLER PICKERING HALE and DORR LLP  
60 State Street  
Boston, MA 02109  
(617) 526-5000 fax

Brian E. Whiteley (BBO No. 555683)  
SCIBELLI, WHITELEY & STANGANELLI, LLP  
50 Federal Street, 5<sup>th</sup> Floor  
Boston, MA 02110  
(617) 722-6003 fax

/s/ Robert W. Biederman  
ROBERT W. BIEDERMAN